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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/392,841	09/09/1999	SCOTT J. BROUSSARD	AT9-99-319	1862

7590 11/13/2002

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EXAMINER

QURESHI, SHABANA

ART UNIT PAPER NUMBER

2155

8

DATE MAILED: 11/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Ex Parte Reexamination Advisory Action	Control Number 00/000,000 09/392,841	Patent Under Reexamination <Unknown>	
	Examiner Shabana Qureshi	Art Unit 2155	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE PROPOSED RESPONSE FILED 25 October 2002 FAILS TO OVERCOME ALL OF THE REJECTIONS IN THE FINAL REJECTION MAILED 9-27-02. Therefore, unless a timely appeal is filed, or other appropriate action by the patent owner is taken to overcome all of the outstanding rejection(s), this *ex parte* reexamination proceeding WILL BE TERMINATED and a Notice of Intent to Issue *Ex Parte* Reexamination Certificate will be mailed in due course. Any finally rejected claims, or claims objected to, will be CANCELLED.

THE PERIOD FOR RESPONSE IS EXTENDED TO RUN _____ MONTHS FROM THE MAILING DATE OF THE FINAL REJECTION.

(Extensions of time are governed by 37 CFR 1.550(c))

1. Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within the extended period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).
2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see NOTE below);
 - (c) they are not deemed to place the proceeding in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.
 NOTE: _____
3. Patent owner's proposed response filed _____ has overcome the following rejection(s): _____
4. The proposed new or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit/declaration, b) exhibit, or c) request for reconsideration has been considered but does NOT overcome the rejection(s) because: _____.
6. The affidavit/declaration or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:
 Claim(s) patentable and/or confirmed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: _____
 Claim(s) not subject to reexamination: _____
8. The proposed drawing correction filed on _____ a) has b) has not been approved by the Examiner.
9. Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s) _____.
10. Other: _____

cc: Requester (if third party requester)

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Attachment to Advisory Action

This office action is in response to the amendment after final files on October 25, 2002. Applicant's request for consideration has been fully considered but they are not persuasive because of the following reasons:

Applicant argues that Trueblood et al in view of Wong do not teach a method for a distributed audio server, the method comprising the computer-implemented steps of:

- generating audio data and graphic data in a platform-independent application;
- sending graphic data to a display server on a client machine specified by a display environment variable; and
- sending the audio data to a platform-independent audio server on the client machine specified by an audio environment variable or by an audio command line parameter.

Trueblood teaches a method for a distributed audio server (column 2, lines 43-49), the method comprising the computer implemented steps of: generating audio data and graphic data (columns 5-6; column 21, lines 49-55); sending the graphic data to a display server on a client machine specified by a display environment variable (columns 5-7; 'X-commands'); and sending the audio data to an audio server on the client machine (column 7, line 60 – column 8, line 20) specified by an audio environment variable or by an audio command line parameter (column 6, lines 50-65; column 7; column 7, line 41 – column 11, line 34, 'X-command file', 'X-command'). Trueblood fails to teach that the application is overall platform independent because the audio server is communicates with hardware. Wong et al. teach a media plug-in application that is platform independent (abstract; column 5, lines 30-51). It would be obvious to one of ordinary skill in the art at the time the invention was made to employ Wong's teachings within

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the system of Trueblood because employing a platform independent application would allow the system to be hardware-tolerant, and therefore be able to run on various types of machines.

In response to applicant's argument that an environment variable is not inherent to the system of Trueblood, X-Windows provides a display environment variable that allows a client to specify the display to which data or commands are being sent. It would be inherent to a system employing audio in X-Windows to have an audio environment variable that allows a client to specify the audio device to which data or commands are being sent. Without the audio environment variable, Trueblood's system would not be able to operate. Also, Trueblood teaches an X-command file that contains configuration data. This file has the same function as an environment variable that contained in the configuration file (column 6, lines 50-65; column 7; column 7, line 41 – column 11, line 34). The combination of Trueblood system and Wong's audio system would result in the need of an audio environment variable in the configuration file.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The motivation to combine the feature of platform independence of Wong into the teachings of Trueblood is that it will allow the system of Trueblood to be used on a universal platform.

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Conclusion

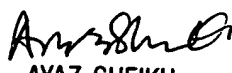
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shabana Qureshi whose telephone number is (703) 308-6118.

The examiner can normally be reached on Monday - Friday, 8:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (703) 305-9648. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

SQ
November 7, 2002


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100